

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

X

COMMODORE FACTORS CORP.

Index No. 07-CV-3433  
(TPG)

Plaintiff,

-against-

RICHARD COCHERL and JANICE COCHERL

Defendants/Third Party Plaintiffs

THIRD PARTY COMPLAINT

against

SCOTT GINS and ANGELA GINS

Third Party Defendants.

X

Defendant/third party plaintiff, Richard Cocherl by and through his counsel, Stein, McGuire, Pantages & Gigl, by way of Third Party Complaint against third party defendants, Scott Gins and Angela Gins alleges as follows:

**FACTS COMMON TO ALL COUNTS**

1. Plaintiff, Commodore Factors has instituted a civil action against defendant/third party plaintiff, Richard Cocherl and defendant, Janice Cocherl presently pending in the United States District Court for the Southern District of New York under case number 07 CV-3433. A copy of plaintiff's Complaint is attached hereto and made part hereof as defendant/third party plaintiff's Exhibit A.

2. Upon information and belief, third party defendants, Scott Gins and Angela Gins presently reside at 75 Fairhaven Avenue in the Borough of Allendale, County of Bergen, State of New Jersey.

3. Plaintiff, Commodore Factors Corp. alleges in part that defendant/third party plaintiff breached the terms of a Factoring Agreement and Personal Guaranty resulting in damages to Commodore Factors in the amount of \$236,264.58.

4. Third party defendants, Scott Gins and Angela Gins cosigned the Factoring Agreement which was specifically referred to in plaintiff's Complaint.

5. Third party defendants, Scott Gins and Angela Gins also executed Personal Guarantees for the obligation set forth in the aforementioned Factoring Agreement.

COUNT ONE (Breach of Contract)

6. Third party defendants, Scott Gins and Angela Gins breached the terms of the aforementioned Factoring Agreement.

7. Third party defendants, Scott Gins and Angela Gins are therefore indebted to Commodore Factors in the amount of \$236,264.58.

8. Accordingly, third party defendants are jointly liable and obligated to the claims asserted by plaintiff, Commodore Factors.

SECOND COUNT (Unjust Enrichment)

9. Defendant/third party plaintiff repeats the allegations of the Facts Common to All Counts and Count One of the Third Party Complaint as though more fully set out herein at length.

10. Third party defendants obtained a benefit as a result of the aforementioned agreement with plaintiff, Commodore Factors.

11. To the extent that defendant/third party plaintiff would pay more than his proportionate share of any monies if owed to plaintiff, Commodore Factors, third party defendants would be unjustly enriched.

COUNT THREE (Unauthorized/Negligent Conduct)

12. Defendant/third party plaintiff, Richard Cocherl repeats the allegations of Facts Common to All Counts and Counts One and Two above as though more fully set out herein at length.

13. On or prior to the date of the agreement with Commodore Factors, defendant/third party plaintiff and third party defendants agreed that joint authorization was required in order to obtain monies from Commodore Factors. Third party defendant, Scott Gins without the approval of defendant/third party plaintiff, Richard Cocherl obtained monies from Commodore Factors Corp.

14. Third party defendant, Scott Gins in breach of the agreement with defendant/third party plaintiff, Richard Cocherl requested monies from Commodore Factors without the knowledge or consent of third party plaintiff.

15. Third party defendant, Scott Gins lacked the authority, real or apparent, to obligate third party plaintiff to any indebtedness with Commodore Factors without the knowledge, consent and approval of third party plaintiff.

COUNT FOUR (Joint Liability)

16. Defendant/third party plaintiff, Richard Cocherl repeats the Facts Common to All Counts, Counts One, Two and Three as though more fully set out herein at length.

17. Third party defendant, Scott Gins executed a Personal Guaranty to the subject obligation with Commodore Factors.

18. Third party defendant, Angela Gins executed a Personal Guaranty to the subject obligation with Commodore Factors.

19. Accordingly, third party defendants are jointly liable based upon the terms and provisions of the Personal Guaranty to the claims made by plaintiff, Commodore Factors.

WHEREFORE, defendant/third party plaintiff, Richard Cocherl demands judgment against third party defendants, Scott Gins and Angela Gins as follows:

1. For all sums that third party plaintiff may be legally obligated to pay plaintiff, Commodore Factors.
2. For third party defendants proportionate share of all monies that defendant/third party plaintiff is adjudged to be owed to plaintiff, Commodore Factors.
3. Compensatory damages.
4. For such other relief as the Court may deem equitable and just.

**JURY DEMAND**

Defendant demands a trial by jury on all issues so triable.

Dated:

Yours, etc.

STEIN, MCGUIRE, PANTAGES & GIGL, LLP

BY: \_\_\_\_\_ /S  
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